

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

DONALD ANSON,

Plaintiff,

07-CV-0035A(Sr)

v.

UNITED STATES OF AMERICA,

Defendant.

DECISION AND ORDER

Currently before the Court is plaintiff's motion seeking an Order directing counsel for defendant to provide him with copies of his deposition transcript and the deposition transcript of witness, Deputy Pfohl. Dkt. #48. In addition, plaintiff requests this Court to provide him with copies of any correspondence or transcripts of any discussions concerning the re-scheduling of the preliminary pretrial conference originally scheduled for January 15, 2009. *Id.* Finally, plaintiff requests an updated copy of the docket sheet. *Id.* For the following reasons, plaintiff's motion is granted in part and denied in part.

Deposition Transcripts

It is the local custom and practice in Buffalo, New York that the party taking a deposition provides opposing counsel with a copy of the deposition transcript. In the instant case, defendant, United States of America, noticed plaintiff's deposition for April 15, 2009. Plaintiff, proceeding *pro se*, sought an order from this Court in or

about March 2009, preventing his transport from FCI Loretto to Rochester, New York¹ for the purpose of the taking of his deposition. Dkt. #41. This Court denied plaintiff's request for a temporary restraining order and Chief Judge Arcara adopted this Court's Report and Recommendation denying the request for emergency relief. Dkt. #46. Plaintiff's deposition was taken on April 15, 2009 in Rochester, New York. Also on April 15, 2009, defendant made Deputy Pfohl available for plaintiff to depose. As is evident from the instant motion, plaintiff availed himself of the opportunity to depose Deputy Pfohl. Dkt. #48. Consistent with the local custom and practice in Buffalo, New York, plaintiff's motion for a copy of his deposition transcript is granted and defendant is hereby ordered to provide plaintiff with a copy of his deposition transcript. Plaintiff's motion seeking a copy of the deposition transcript of witness Deputy Pfohl is denied. Notwithstanding the fact that plaintiff is proceeding *pro se* and has been granted leave to proceed *in forma pauperis*, plaintiff is responsible for the cost associated with obtaining a copy of Deputy Pfohl's deposition transcript and is responsible for providing counsel for defendant with a copy.

Preliminary Pretrial Conference

That portion of the instant motion seeking copies of any correspondence or transcripts of any discussions concerning the re-scheduling of the preliminary pretrial

¹ Co-counsel for the United States' office is located in Rochester, New York, accordingly, plaintiff's deposition was scheduled to take place in Rochester, New York.

conference originally scheduled for January 15, 2009 is denied.² As this Court has previously stated, the Preliminary Pretrial Conference scheduled for January 15, 2009 was adjourned and re-scheduled for January 27, 2009 **by reason of the Court's calendar.** Dkt. #42. Accordingly, plaintiff's motion for correspondence or transcripts of any discussions concerning the re-scheduling of the preliminary pretrial conference is denied.

Copy of Docket Sheet

Plaintiff requests a copy of the docket sheet; plaintiff's request is granted. A copy of the current docket sheet is enclosed with a copy of this Decision and Order.

SO ORDERED.

Dated: Buffalo, New York
May 18, 2009

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge

² On December 3, 2008, this Court scheduled a Preliminary Pretrial Conference for January 15, 2009. Dkt. #33. Thereafter, on January 15, 2009, the Court re-scheduled the Preliminary Pretrial Conference for January 27, 2009. Dkt. #34. On January 22, 2009, plaintiff filed a motion for default judgment on the grounds that defendant failed to comply with this Court's Order scheduling the Preliminary Pretrial Conference. Dkt. #36. On January 27, 2009, this Court denied plaintiff's motion for default judgment. Dkt. ##37 and 38. Thereafter, plaintiff filed a motion for review of this Court's Order (Dkt. #38) denying plaintiff's motion for default judgment. Dkt. #40. By Text Order dated March 28, 2009, this Court clarified its prior Order (Dkt. #38) stating, "the Court clarifies that the Preliminary Pretrial Conference originally scheduled for January 15, 2009, was adjourned due to the Court's calendar and rescheduled for January 27, 2009. Accordingly, there is no basis to consider sanctions against the defendant." Dkt. #42.